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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,007	06/04/2001	Tomohiko Kudo	WN-2343	3644

7590 02/27/2002  
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EXAMINER

SOWARD, IDA M

ART UNIT	PAPER NUMBER
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2822

DATE MAILED: 02/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/872,007

Applicant(s)

KUDO ET AL.

Examiner

Ida M Soward

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2822

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

This office action is in response to the application filed on 06/04/2001.

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Objections*

Claim 4 is objected to because of the following informalities: than should have been between "thinner" and "the". Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al. (4,651,406) in view of Huang et al. (6,037,222).

Shimizu et al. teach a semiconductor device comprising : a first MOSFET **A** having a first gate oxide film  $It_2$ ; a second MOSFET **B** of n-type conductivity having a second gate oxide film  $It_1$  thicker than the first gate oxide film; and a third MOSFET **C**

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having a third gate oxide film  $It_2$  which is thicker than the first gate oxide film (Figure 2). However, Shimizu et al. fail to teach a third MOSFET of p-type conductivity having a gate oxide film thinner than the second gate oxide film, MOSFETs forming a complementary MOS circuitry, and isolation regions within the substrate. Huang et al. teach a p-type MOSFET having a gate oxide film thinner than the **14** MOSFETs, MOSFETs **12** forming a complementary MOS circuitry, and isolation regions **18 & 19** within the substrate **10** close to the surface (Figure 3). In regard to the fabrication method claims 3-17, even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior, the claim is unpatentable even though the prior product was made by a different process. In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the oxide thickness of Shimizu et al. with the gate oxide film, complementary MOS, and isolation regions of Huang et al. to provide a device that does not substantially increase the manufacturing process complexity or cost.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to multiple oxide thickness on a semiconductor substrate:

Ahn et al. (US 6,297,103 B1)	Sung (US 6,184,093 B1)
Bronner et al. (US 6,339,001 B1)	Trivedi et al. (US 2001/0040256 A1)
Crowder et al. (US 6,335,262 B1)	Tsao et al. (6,137,144)
Gardner et al. (5,882,991)	Vines et al. (5,989,948)
Ishida et al. (6,040,019)	Wu et al. (6,146,948)
Lu et al. (6,107,134).	

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ida M Soward whose telephone number is 703-305-3308. The examiner can normally be reached on Monday - Friday, 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead, Jr. can be reached on 703-308-4940. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

ims  
February 22, 2002

*Carl Whitehead, Jr.*  
CARL WHITEHEAD, JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800